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Attorneys for RGIS, LLC (erroneously
 sued as RGIS Inventory Specialists, Inc.)

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

TRISHA WREN and CYNTHIA PIPER,
 et al., individually and behalf of others
 similarly situated,

Plaintiffs,

v.

RGIS Inventory Specialists, LLC, RGIS,
 LLC, Does 1-25 Inclusive,

Defendants.

Case Nos.: 3:06-cv-05778 JCS
 3:07-cv-00032 JCS

STIPULATION AND ~~PROPOSED~~
 ORDER AUTHORIZING MAILING
 OF NOTICE OF CLASS ACTION
 SETTLEMENT TO ADDITIONAL
 OPT-IN PLAINTIFFS

Judge: Hon. Joseph C. Spero

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STIPULATION

WHEREAS the parties have submitted a proposed class settlement in the above-captioned matter;

WHEREAS the Court granted preliminary approval of that proposed class settlement on September 16, 2010;

WHEREAS the Court held a tentative final approval hearing on the parties' proposed class settlement on January 28, 2011;

WHEREAS the Court is scheduled to hold a final approval hearing on the parties' proposed class settlement on March 25, 2011;

WHEREAS the settlement administrator in this action, Rust Consulting, Inc., has already mailed over 64,000 notices of class action settlement to settlement class action members;

I. PREVIOUSLY UNIDENTIFIED OPT-INS

WHEREAS there have been a number of individuals throughout this litigation who submitted written opt-in forms pursuant to 29 U.S.C. § 216(b) consenting to participate in plaintiffs' Fair Labor Standards Act (FLSA) claims as party plaintiffs, but whom defendant was previously unable to positively identify in its databases;

WHEREAS these putative opt-in plaintiffs who defendant could not positively identify in its databases were not previously mailed notice of the proposed class action settlement in this action;

WHEREAS the parties desire to ensure that as many opt-ins as possible are given an opportunity to participate in the proposed settlement;

WHEREAS over the course of the last several weeks defendant has undertaken a comprehensive manual review of the available information for all of the thousands of individuals who submitted consent forms in this action in order to positively match as many of them as possible with individuals in its databases;

WHEREAS, as a result of this comprehensive review, defendant has been able to successfully identify 538 opt-in plaintiffs who did not previously receive notice of the

1 proposed class settlement in this action, either because defendant was not previously
2 able to identify those individuals in its databases, because defendant previously
3 misidentified the individual, or because the individual submitted a consent form prior to
4 the Court-supervised notice process and was inadvertently omitted from earlier
5 settlement class member lists;

6 WHEREAS, if these 538 individuals are mailed notice of the class action
7 settlement by Friday, February 18, 2011, they will have sufficient time under the parties'
8 settlement agreement, and the Court's September 16, 2010 order granting preliminary
9 approval to that settlement agreement, to object to the settlement or request exclusion
10 from it prior to the scheduled March 25, 2011, final approval hearing.

11 **II. OPT-INS FROM SETTLEMENT CLASS MEMBER LIST WITH NO**
12 **ACTIVITY DURING THE FLSA LIMITATIONS PERIOD**

13 WHEREAS on October 15, 2010, pursuant to the parties' settlement agreement,
14 defendant provided plaintiffs' and the claims administrator with a settlement class
15 member list;

16 WHEREAS the October 15, 2010 settlement class member lists contain entries
17 for 369 opt-in plaintiffs, which defendant identified as individuals who had "[n]o
18 activity within [the] limitations period";

19 WHEREAS the cover letter from defendant to plaintiffs that accompanied the
20 October 15, 2010 settlement class member list explained that this designation indicated
21 that the corresponding opt-ins did not work during the maximum FLSA limitations
22 period and, accordingly, time and payroll data had not been previously produced for
23 those individuals;

24 WHEREAS the parties recently discovered that no notice of class settlement had
25 been sent to these 369 individuals;

26 WHEREAS these 369 individuals, as opt-ins, are members of the settlement class,
27 but because they did not work any shifts in a covered position during the maximum
28 FLSA limitations period they are not entitled to a monetary award under the parties'

1 settlement agreement;

2 WHEREAS the parties' agree that these 369 individuals should receive the same
3 type of alternative notice of class settlement sent to other opt-ins who plaintiffs'
4 previously determined did not work any shifts in a covered position during the
5 applicable limitations period, informing them of: (i) their membership in the settlement
6 class, (ii) their opportunity to present proof to class counsel establishing that they are, in
7 fact, entitled to a settlement award, (iii) their right to object to the settlement; and (iv)
8 their right to request exclusion from the settlement;

9 WHEREAS, if these 369 individuals are mailed notice of the class action
10 settlement by Friday, February 18, 2011, they will have sufficient time under the parties'
11 settlement agreement, and the Court's September 16, 2010 order granting preliminary
12 approval to that settlement agreement, to contact class counsel to present proof that they
13 did work in a covered position during the limitations period, object to the settlement, or
14 request exclusion from it, prior to the scheduled March 25, 2011, final approval hearing.
15

16 It is HEREBY STIPULATED by the parties, by and through their counsel of
17 record, that, subject to the Court's agreement, that:

18 1. The settlement administrator, Rust Consulting, Inc., should mail notice of
19 the proposed class settlement to the 907 individuals discussed above by no later than this
20 Friday, February 18, 2011;

21 2. Notice of the proposed class settlement should be mailed to the 538
22 individuals discussed in Part I above in the form previously approved by the Court on
23 January 14, 2011 [dkt. no. 908; *see also* dkt. no. 907, ex. A], which provides an
24 estimated average award in lieu of individualized estimate; and

25 3. Notice of the proposed class settlement should be mailed to the 369
26 individuals discussed in Part II above in the alternative form previously approved by the
27 Court on January 3, 2011 [dkt. no. 904; *see also* dkt. no. 900-1, ex. 8], which explains
28 that records indicate that the intended recipient previously submitted an opt-in consent

1 form, but that the available time and payroll data indicate that the individual is not
2 entitled to an award under the settlement agreement.

3 IT IS SO STIPULATED.

4
5 Dated: February 16, 2011

SCHNEIDER WALLACE
COTTRELL BRAYTON
KONECKY LLP

7
8 By: /s/ Andrew P. Lee

9 ANDREW P. LEE
Attorneys for Plaintiffs

10 Dated: February 16, 2011

AKIN GUMP STRAUSS HAUER &
FELD, LLP

11
12 By: /s/ Michael S. McIntosh

13 MICHAEL S. MCINTOSH
Attorneys for Defendants

14
15 ~~PROPOSED~~ ORDER

16 The Court, having reviewed the parties' stipulation, and good cause appearing,
17 hereby orders that notice of the proposed class action settlement in this action be mailed,
18 in the forms previously approved by the Court on January 3 and 14, 2011, to the 907
19 opt-in plaintiffs discussed above in the parties' stipulation. Such notice shall be sent to
20 the potential settlement class members at issue as soon as possible, and by no later than
21 February 18, 2011.

22 IT IS SO ORDERED

23
24 Dated: February 17, 2011

